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STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY CO

In the Matter of:

) Docket No. 01A-251-INS  
)  
)  
)

**LIFE AND HEALTH INSURANCE COMPANY  
OF AMERICA, NAIC #77887,**

) **CONSENT ORDER**  
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)  
)

Respondent.  
\_\_\_\_\_

An Examiner for the Department of Insurance ("the Department") conducted a market conduct examination of Life and Health Insurance Company of America ("LHA"). The Report of Examination of the Market Conduct Affairs of LHA dated January 26, 1996 alleges that LHA has violated A.R.S. §§ 20-461, 20-462, 20-1110, 20-1691.05, 20-2106, 20-2110; and A.A.C. R 20-6-801, 20-6-1007, 20-6-1008, and 20-6-1014.

LHA wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. LHA is authorized to transact life and disability insurance as an insurer, pursuant to a Certificate of Authority issued by the Director.

2. The Examiner was authorized by the Director to conduct a market conduct examination of LHA. The on-site examination covered the time period from September 1, 1992 through August 31, 1995. Based on the findings, the Examiner prepared the "Report of Examination of the Market Conduct Affairs of Life and Health Insurance Company of America" dated January 26, 1996.

1           3.     The Examiner found policy forms issued by LHA failed to include all  
2 legally mandated provisions, as follows:

3               a.     Two home health care policy forms and one long-term care policy  
4 form failed to include a pre-existing waiver clause when replacing policies with similar  
5 benefits.

6               b.     Premium was accepted and applied in connection with policy  
7 reinstatement on one home health care policy form, one long-term care policy form,  
8 and one hospital indemnity policy form to a period 90 days prior to the date of  
9 reinstatement, although this time period is limited by statute to 60 days. These forms  
10 have been corrected and refiled with the Department.

11              c.     Two home health care policy forms and one home health care  
12 brochure included exclusions or limitations other than those permitted by A.A.C. R20-6-  
13 1004(B)(3). These forms have been corrected and refiled with the Department.

14              d.     One home health care application form and one long-term care  
15 application failed to show the applicant's signature in close proximity, and failed to  
16 include the statement concerning Respondent's right to deny benefits or rescind the  
17 policy as required by A.A.C. R20-6-1008(B)(1).

18              e.     Two home health care application forms, one long-term care  
19 application form, one hospital indemnity application form, one cancer insurance form,  
20 and one life insurance form failed to include the purpose of the authorization for  
21 release of information, the period of time for which it would be valid, and/or a statement  
22 that the applicant was entitled to a copy of the authorization form.

23              f.     One home health care claim form, one long-term care claim form,  
24 one hospital indemnity claim form, and one life insurance claim form failed to include  
25 the purpose of the authorization for release of information, the period of time for which



1 it would be valid, and/or a statement that the applicant was entitled to a copy of the  
2 authorization.

3 4. The Examiner reviewed six direct mail advertisements used by LHA for  
4 the sale of long-term care and other insurance products in Arizona, and found that LHA  
5 failed to file all six advertising forms with the Department.

6 5. The Examiner reviewed 166 applications for individual policies of  
7 insurance that were issued by the Company, and found as follows:

8 a. LHA failed to provide four applicants in writing the specific reasons  
9 for the adverse underwriting decisions, or to advise them that upon written request they  
10 may receive the specific reasons in writing, and failed to provide them with the  
11 Summary of Rights.

12 b. LHA issued 22 home health care and long term care policies  
13 without providing the applicants with the "Notice Regarding Replacement of existing  
14 insurance.

15 c. LHA issued 16 Home Health Care and Long Term Care policies  
16 with a Notice Of Replacement form other than required by A.A.C., Art 10, Appendix A.

17 d. LHA issued 11 home health care and long term care policies  
18 without notifying the existing insurer of the proposed replacement within five working  
19 days.

20 e. LHA refused to refund premiums of \$830.55 paid on each of two  
21 long-term care policies when refunds were requested within the 30 day free look  
22 period.

23 f. LHA issued 166 policies without providing a "Notice of Information  
24 Practices" to the applicants, although the applications contained personal information  
25 on the applicants.

1           g.     LHA issued all 166 home health care and long term care policies  
2 without providing the applicants with a Buyer's Guide and a Policy Summary.

3           6.     The Examiners reviewed 76 applications for individual policies of  
4 insurance that were declined by LHA, and found as follows:

5           a.     LHA failed to provide 69 applicants with the specific reasons for  
6 the adverse underwriting decision in writing, and/or advise them that they may receive  
7 the specific reasons in writing, and failed to provide them with a Summary of Rights.

8           b.     LHA failed to notify the existing insurer of the proposed  
9 replacement within five working days of four home health care and long term care  
10 policies.

11           c.     LHA accepted applications for 76 policies without providing  
12 "Notices of Information Practices" to the applicants, although the applications collected  
13 personal information on the applicants.

14           d.     LHA accepted applications for 76 policies which the authorization  
15 for release of information, failed to include the purpose of the authorization for release  
16 of information, the period of time for which it would be valid, and/or a statement that the  
17 applicant was entitled to a copy of the authorization form.

18           8.     The Examiner reviewed 186 individual claims paid or denied by the  
19 Company, and found as follows:

20           a.     LHA failed to advise 14 first party claimants within 15 working days  
21 from the initial notification, and every 45 days thereafter, of the need for continued  
22 investigation and the reasons that more time was needed.

23           b.     LHA failed to pay interest on five claims that were not paid within  
24 30 days after receipt of acceptable proofs of loss.



1           9.     The Examiner reviewed a total of 28 complaints filed with the Department  
2 against the Company, and found as follows:

3           a.     LHA declined two applications but failed to provide the specific  
4 reasons for the adverse underwriting decisions in writing, and failed to provide the  
5 applicants with a Summary of Rights.

6           b.     LHA declined one claim as a "pre-existing condition" although the  
7 claim was incurred after the exclusion period.

8           c.     LHA reduced the amount of benefits proposed to one applicant  
9 when the policy was issued but failed to provide the specific reason for the adverse  
10 underwriting decision in writing and failed to provide the applicant with a Summary of  
11 Rights. LHA refunded all premiums paid when the insured requested cancellation,  
12 although cancellation was requested ten months after the policy effective date.

13           d.     LHA paid one claim on the basis of the "prevailing rate," rather  
14 than in the amount of the "charge incurred," as stated in the contract. As a result, the  
15 amount of \$99.50 was not paid to the insured. This claim has been paid.

16  
17                                   **CONCLUSIONS OF LAW**

18           1.     LHA violated A.R.S. § 20-2106 by issuing application forms for long-term  
19 care insurance, hospital indemnity insurance, cancer insurance, and life insurance,  
20 which included authorizations for release of information but failed to include the  
21 purpose of the authorization for release of information, the period of time for which it  
22 would be valid, or a statement that the applicant was entitled to a copy of the  
23 authorization.

24           2.     LHA violated A.A.C. R20-6-1008(B)(1) by issuing home health care and  
25 long term care application forms that failed to include, in close proximity to the

1 applicant's signature, the required statement concerning respondent's right to deny  
2 benefits or rescind the policy.

3 3. LHA violated A.R.S. § 20-1110(E) and A.A.C. R20-6-1014 by using direct  
4 mail advertisements for the sale of long-term care insurance that were not filed with the  
5 Director.

6 4. LHA violated A.R.S. § 20-2110(A) by failing to give applicants for  
7 insurance specific reasons for the declinations, notify them that the specific reasons  
8 could be obtained upon written request, and to provide them with a Summary of Rights.

9 5. LHA violated A.A.C. R20-6-1007(C) by failing to provide the "Notice  
10 Regarding Replacement" to applicants for home health care and long-term care  
11 policies required by A.A.C. Article 10, Appendix A, where replacement appeared to be  
12 involved.

13 6. LHA violated A.A.C. R20-6-1007(E) by failing to notify existing insurers of  
14 proposed replacements within five working days of receipt of the applications.

15 7. LHA violated A.R.S. § 20-1691.05 by failing to refund premiums in full  
16 when policy cancellation was requested within 30 days of policy delivery.

17 8. LHA violated A.A.C. R20-6-801(G)(1)(b) and A.R.S. § 20-461(A)(2) by  
18 failing to advise health and life insurance claimants 15 days from the initial notification  
19 of the claim, and every 45 days thereafter, of the need for continued investigation and  
20 the reason that more time was needed.

21 9. LHA violated A.R.S. § 20-462(A) by failing to pay interest on home health  
22 and long-term care claims that were not paid within 30 days after receipt of acceptable  
23 proofs of loss.

24 10. LHA violated A.A.C. R20-6-801(D)(1) by failing to fully pay the benefits  
25 due a claimant on home health care claim by paying this claim on the basis of



1 prevailing fees rather than on the charges incurred as stated in LHA's advertising  
2 materials.

3 11. Grounds exist for the entry of the following Order, in accordance with  
4 A.R.S. § 20-220, 20-456, 20-1691.07 and 20-2117.

5 **ORDER**

6 **IT IS HEREBY ORDERED THAT:**

7 1. Life and Health Insurance Company of America shall not:

8 a. State that benefit amounts are equal to the "charge incurred," but  
9 stating elsewhere that benefits would be limited to the "reasonable charge" for the  
10 services rendered, or paying claims on the basis of "reasonable charges" without  
11 changing policy and advertising language regarding "charges incurred," paying claims  
12 on the basis of "reasonable charges" or "prevailing fees" unless policies and  
13 advertising forms are amended to state this method of claims payment.

14 b. Fail to include notices of information practices in applications for  
15 life and disability insurance policies that request personal information concerning the  
16 applicants.

17 c. Issue application forms for life and disability insurance which  
18 included authorizations for release of information, without including the purpose of the  
19 authorization for release of information, the period of time for which it would be valid,  
20 and a statement that the applicant is entitled to a copy of the authorization.

21 d. Accept applications for long-term care insurance that do not  
22 include answers to all questions in the application concerning the replacement of  
23 existing insurance and do not list other health insurance policies sold by the agents to  
24 the applicants.

1 e. Fail to file all advertisements for long-term care insurance used in  
2 Arizona with the Director.

3 f. Issue policies of long-term care on forms that are not filed with the  
4 Director.

5 g. Fail to give applicants for individual life, long-term care, and  
6 disability income insurance the specific reasons for the declinations or notify them that  
7 the specific reasons could be obtained upon written request, and to provide them with  
8 a Summary of Rights.

9 h. Fail to provide the "Notice Regarding Replacement" to applicants  
10 for long-term care policies where replacement appears to be involved.

11 i. Fail to notify existing insurers of proposed replacements within five  
12 working days of receipt of the applications.

13 j. Fail to provide a buyer's guide and policy summary to applicants  
14 for home health care and long term care policies prior to accepting the premium  
15 deposit .

16 k. Fail to advise claimants within 15 days from the initial notification  
17 of the claim, and every 45 days thereafter, of the need for continued investigation and  
18 the reasons that more time is needed.

19 2. Within 90 days of the filed date of this Order, LHA shall submit to the  
20 Arizona Department of Insurance, for approval, evidence that corrections have been  
21 implemented and communicated to the appropriate personnel regarding all the items  
22 listed in Paragraph 1 of the Order section of this Consent Order. Evidence of  
23 corrective action and communication thereof includes, but is not limited to, memos, E-  
24 mails, correspondence, procedures manuals, print screens, and training materials.  
25



1           3.     Within 90 days of the filed date of this Order, LHA shall refund a total of  
2 \$1,661.10, plus interest at the rate of 10% per annum, to the two insureds listed in  
3 Exhibit A.

4           4.     Each payment referenced in item 3 above shall include a letter of  
5 explanation to the insured in a form previously approved by the Director. A list of  
6 payments, giving the name and address of each party paid, the amount of each claim  
7 paid, the amount of interest paid, and the date of payment, shall be provided to the  
8 Department within 90 days of the filed date of this Order.

9           5.     Within 90 days of the filed date of this Order, LHA shall submit for review  
10 and approval the following forms if LHA intends to use the forms: LHA-5100, LHA-APP  
11 (SUPP), LHA HIP (APP), LHA-APP (90) REV and LHA-DISC-70-MD.

12          6.     The Department shall be permitted, through authorized representatives,  
13 to verify that LHA has complied with all provisions of this Order.

14          7.     LHA shall pay a civil penalty of \$30,000 to the Director for deposit in the  
15 State General Fund in accordance with A.R.S. §20-220(B). The civil penalty shall be  
16 provided to the Market Conduct Examination Section of the Department prior to the  
17 filing of this Order.

18 . . . . .

19 .

8. The January 26, 1996 Report of Examination of the Market Conduct Affairs of Life and Health Insurance Company of America, including the letter submitted in response to the Report of Examination, shall be filed with the Department after this Order is issued.

DATED at Phoenix, Arizona this 31 day of October, 2001.

*Chah Chah*

Charles R. Cohen  
Director of Insurance



**EXHIBIT A**

Premium Refunds

<u>Policy Number</u>	<u>Amount</u>
93H01122	\$830.55
93H01123	\$830.55

**CONSENT TO ORDER**

1. Life and Health Insurance Company of America has reviewed the foregoing Order.

2. Life and Health Insurance Company of America admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. Life and Health Insurance Company of America is aware of its right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. Life and Health Insurance Company of America irrevocably waives its right to such notice and hearing and to any court appeals related to this Order.

4. Life and Health Insurance Company of America states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

5. Life and Health Insurance Company of America acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely to settle this matter against it and does not preclude any other agency or officer of this state or its subdivisions or any other person from any other civil or criminal proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. MELVYN K. MILLER, who holds the office of PRESIDENT of Life and Health Insurance Company of America, is authorized to enter into this Order for it and on its behalf.

**LIFE AND HEALTH INSURANCE COMPANY OF AMERICA**

10-25-01  
Date

By: Melvyn K Miller



1 COPY of the foregoing mailed/delivered  
2 This 1st day of November 2001, to:

3 Sara Begley

4 Deputy Director

5 Mary Butterfield

6 Assistant Director

7 Consumer Affairs Division

8 Paul J. Hogan

9 Chief Market Conduct Examiner

10 Market Conduct Examinations Division

11 Deloris E. Williamson

12 Assistant Director

13 Rates & Regulations Division

14 Steve Ferguson

15 Assistant Director

16 Financial Affairs Division

17 Alexandra Shafer

18 Assistant Director

19 Life & Health Division

20 Nancy Howse

21 Chief Financial Examiner

22 Terry L Cooper

23 Fraud Unit Chief

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